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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/626,513

07/25/2003

Youichi Kudoh

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EXAMINER

TOPGYAL, GELEK W

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

03/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/626,513	Applicant(s) KUDOH ET AL.	
	Examiner GELEK TOPGYAL	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :7/25/03,3/10/06,3/14/06,4/13/06.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 7/31/2002. It is noted, however, that applicant has not filed a certified copy of the JP 2002-22269 application as required by 35 U.S.C. 119(b). The entire application of the priority document must be filed to claim.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation function." The New IEEE Standard Dictionary of Electrical and Electronic Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held statutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

3. **Claims 5, 11 and 12** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claims 5, 11 and 12

defines a *program product* embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., “When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized” – Guidelines Annex IV). That is, the scope of the presently claimed *program product* can range from a paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on “computer-readable medium storing/encoded with the program product” or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-7 and 9-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipscomb et al. (US 7,020,704).

6. **Regarding claims 1**, Lipscomb et al. teaches 1 an AV system, comprising:
a server and a plurality of clients, at least one of said clients including;

a broadcaster broadcasting a predetermined magic word (Col. 10, lines 45-62 teaches of user-specific passwords; Fig. 11 also teaches "confirmation code". Both meet the claimed magic word), and

a requester requesting said server to establish a connection (Col. 10, lines 45-62 and Col. 13, lines 9-34 teaches of a user's "media player" 200 requesting to establish a connection)

said server including;

a storage device having a secure storage region (Col. 3, line 47 – col. 4, line 11 and Fig. 2, portal 300, teaches wherein a library of contents, including music, video and data are stored on the portal 300), and

an authenticator (Portal 300) authenticating the client based on the magic word broadcasted from the client, and accepting the request from the client to establish the connection with the client (Col. 10, lines 45-62 teaches of synchronization after the user has logged in with user-specified password. Col. 13, lines 9-34 also teaches wherein after the confirmation code is entered, the connection is established),

said client further including;

a writer (col. 12, lines 13-35) writing music and/or video data in said secure storage region via the connection established by said server when authenticated by said server (col. 12, lines 13-35), and

a reproducer reading out music and/or video data from said secure storage region via the connection established by said server and reproducing sound and/or video based on said data when authenticated by said server (col. 10, line 63 - col. 11,

line 59 teaches of the ability to download/stream the multimedia data stored on the portal to the media player 300).

However, it is not clearly taught that the connection is established based on an IP address and a port number transmitted from said server and that transmitting the IP address and the port number of said server to the authenticated client.

It is well known and old in the art for devices that connect to a computer server to request a connection by sending an IP address and a port number of a server; therefore, Official Notice is taken.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate sending an IP address and a port number of a server so that the device can connect to the exact server to which it is trying to establish a connection.

Regarding claim 2, Lipscomb et al. teaches the claimed wherein said writer rips said data from a medium having said data recorded therein and writes said data in said secure storage region (col. 12, lines 13-35).

Regarding claim 3, Lipscomb et al. teaches the claimed wherein said reproducer reproduces sound and/or video by a streaming method (col. 10, line 63 - col. 11, line 59 teaches of the ability to download/stream the multimedia data stored on the portal to the media player 300).

Method claims 4, 9 and 10 are rejected for the same reasons as discussed above in the system claims 1-3, respectively.

Program product claims 5, 11 and 12 are rejected for the same reasons as discussed above in system claims 1-3, respectively.

Apparatus claims 6 and 13 are rejected for the same reasons as discussed above in claims 1 and 3, respectively.

Apparatus claims 7 and 14 are rejected for the same reasons as discussed above in claims 1 and 2, respectively.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art teaches system that allows for players to connect to a server to access and reproduce multimedia data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GELEK TOPGYAL whose telephone number is (571)272-8891. The examiner can normally be reached on 8:30am -5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gelek Topgyal/
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621